

REMARKS

This Amendment is in response to the Office Action of May 25, 2010. In the Office Action, claims 1-4, 7-11, 13, 16-19 and 23-26 were rejected and claims 12 and 20 were objected to. With this Amendment, claims 10 and 19 have been amended and claims 12 and 20 have been cancelled. The remaining claims are unchanged in the application. Claims 5, 6, 14, 15, 21 and 22 were previously cancelled. No new matter has been introduced as a result of the claim amendments. Applicants thank the Examiner for the indication of allowable subject matter in claims 12 and 20. Claims 1-4, 7-11, 13, 16-19 and 23-26 are presented for reconsideration and allowance.

I. CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-4, 7-11, 13 and 16-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ghaffari et al., U.S. Patent No. 6,829,663 (“Ghaffari”) in view of Lo et al., U.S. Publication No. 2004/0010625 (“Lo”).

Claims 19 and 23-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ghaffari in view of Lo.

The above rejections are identical to those included in the previous Office Action mailed on December 22, 2009. Since the rejections were addressed in the Amendment that was filed on March 22, 2010, only the comments in the Response to Arguments section of the outstanding Office Action are addressed below. Also, the following arguments relate only to claims 1-4 and 7-9 because independent claims 10 and 19 have been amended to include the allowable subject matter of claims 12 and 20, respectively, and therefore claims 10, 11, 13, 16-19 and 23-26 are believed to be allowable.

The Response to Arguments section of the Office Action indicates that Applicant’s claim amendments and argument in the previous Amendment essentially amount to Applicant taking a position that the cited references fail to teach or suggest “physical layer quality” in a

communication system. Applicant asserts that this is an oversimplification of the amendments and argument in the prior Amendment.

Applicant respectfully points out that, in the prior Amendment that was filed on March 10, 2010, independent claim 1 was amended to clarify that the first physical layer quality data and the quality standard “are independent of any synchronization data.”

The Response to Arguments section of the outstanding Office Action notes that Lo shows, in FIG. 3, a block diagram of an interface device used for the synchronous transfer of data over serial ATA. This appears to fundamentally differ from the claimed “first physical layer quality data” and “quality standard,” which are “independent of any synchronization data.”

Further, as argued in the previous response, Ghaffari discloses primitives and primitive encoder 216, and primitive decoder 212, in a link layer in FIG. 2 and at column 6, lines 10-14. Primitives in Ghaffari are simply commands or indications of events. These primitives in Ghaffari are transmitted over a communication channel independently of the quality of the communication channel. Ghaffari appears to assume a certain quality level of the communication channel when the primitives are transmitted. Thus, Ghaffari and Lo, taken individually or in combination, do not teach or expressly or impliedly suggest all the elements of independent claim 1. Therefore, independent claim 1 and dependent claims 2-4 and 6-9 are believed to be allowable over the art cited in the Office Action.

In view of the foregoing, Applicants respectfully request reconsideration and allowance of all pending claims 1-4, 7-11, 13, 16-19 and 23-26. Favorable action upon all claims is solicited.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: /Alan G. Rego/
Alan G. Rego, Reg. No. 45,956
900 Second Avenue South, Suite 1400
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222 Fax: (612) 334-3312

AGR:kmm